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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

JUL 30 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Revision of the Commission's Rules to)	CC Docket No. 94-102 /
Ensure Compatibility with Enhanced 911)	
Emergency Calling Systems)	DA 01-1520

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF DOBSON COMMUNICATIONS CORPORATION

Dobson Communications Corporation ("Dobson"),¹ on behalf of its subsidiaries and affiliates hereby submits its comments in the above captioned proceeding.²

I. INTRODUCTION

The Wireless Telecommunications Bureau ("Bureau") seeks comment on the jointly-filed Petition³ requesting reconsideration of the Bureau's letter establishing the input to the 911 Selective Router as the cost demarcation point between wireless carriers and Public Safety Answering Points ("PSAPs").⁴ Dobson believes the legal analysis of

¹ Dobson files the instant comments on its own behalf and that of its various Commission-licensed affiliates and subsidiaries. Through these subsidiaries and affiliates, Dobson holds or manages Part 22 cellular and Part 24 broadband PCS licenses and provides wireless telecommunication services in predominantly rural and suburban markets in nineteen states.

² See *Wireless Telecommunications Bureau Seeks Comment on Petition for Reconsideration Regarding Allocation of Costs of E911 Implementation*, Public Notice, CC Docket No. 94-102, DA 01-1520 (rel. June 27, 2001).

³ See Verizon Wireless, VoiceStream Wireless Corporation, Qwest Wireless LLC, Nextel Communications, Petition for Reconsideration, CC Docket No. 94-102 (filed June 6, 2001) ("Petition").

⁴ See Letter from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, to Marlys R. Davis, E-911 Project Manager, King County E-911 Program Office, Dept. of Information and Administrative Services, dated May 7, 2001 ("*King County Letter*").

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the Petition is correct, and that the record in the proceeding and its own experience supports the Petition. For the reasons discussed herein, the Bureau must determine that a wireless carrier's MSC, and not the "input to the 911 Selective Router," serves as the demarcation point regarding the question of cost allocations in the implementation of Phase I E911 services. Such a determination is consistent with the Commission's rules and precedent and furthers the provision of E911 services.

II. DISCUSSION

Dobson believes the company brings a helpful perspective to the Bureau's consideration of the issues presented by the Petition. As a provider of wireless telecommunications services primarily to rural and suburban areas, the impact of providing Phase I and Phase II E911 services is somewhat different for Dobson than for the Petitioners. Because the decision ultimately adopted here is likely to have precedential value in the future, Dobson's situation, like those of other small and mid-size carriers attempting to implement E911 services for non-urban markets, cannot be ignored.

Indeed, despite the Bureau's contentions to the contrary, carriers like Dobson who primarily serve these smaller population densities are not able to pass through significant percentages of the costs of E911 services to their subscribers.⁵ Furthermore, because of the competition for wireless services that has been fostered by the Commission's spectrum allocation policies, Dobson and other rural carriers must remain competitive with the rate plans offered by the large national and regional carriers, even where the result is to spread the capital costs of the services over a much smaller customer base.

⁵ See *King County Letter* at 6.

For example, in Texas,⁶ Dobson, in its efforts to respond to PSAPs' requests for Phase I services, installed T1 trunks from the respective MSCs to the 911 selective routers, notwithstanding that the extent of carrier cost recovery for such facilities is currently a matter of dispute in the State. If Dobson is required to bear the brunt of these costs, they will necessarily be spread over a smaller subscriber base; at the same time, Dobson cannot simply raise its rates to subscribers to cover these costs, since the market for wireless services requires carriers like Dobson to remain competitive with the national and regional rates that are being offered and advertised in rural markets by the larger carriers with substantially larger subscriber bases against which to recover some or all of these costs. In considering the Petition, the Bureau must consider the impact of its ruling on providers of wireless services in markets of all sizes, and in particular – if the Bureau chooses to go ahead with a substantive change in the rules, by NPRM or otherwise – to tailor its rules accordingly.

Dobson supports Petitioners' legal analysis and the presentation of the facts in the record. First, Dobson agrees that the Bureau failed to properly consider the positions set forth in the comments submitted by wireless carriers. As the Petition stated, precedent and the "principles of reasoned decision making" required the Bureau to consider and address relevant and substantial arguments presented in the carriers' comments.⁷ The Bureau reached its decision in the *King County Letter* without any substantive discussion of the concerns raised in any of the carriers' comments.

Second, Dobson also agrees with the Petitioners' argument that the Bureau's decision -- to establish the input to the 911 selective router as the demarcation point -- is

⁶ Dobson serves several RSAs in the State of Texas.

unsupported by prior factual determinations made in the record.⁸ The Commission has previously indicated that, under Section 20.18(j), PSAPs' costs include upgrades to those systems associated with the 911 Wireline Network which are necessary to utilize the E911 data provided by the wireless carrier, including trunks between the MSC and selective router.⁹ Furthermore, the Commission has determined that the wireless carrier is responsible for its own network and, thus, for providing Phase I data to the 911 Wireline Network -- not for transport facilities within the 911 Wireline Network. As the Petition explains, under the APA and judicial precedent the Bureau may not supply "new content through 'interpretations'" inconsistent with the Commission's rules and policies.¹⁰ In so doing, the Bureau clearly exceeded its delegated authority.¹¹ Dobson further agrees that even if the Commission itself were to apply the interpretation reached by the Bureau, such a break from its established policy would require public input and an additional notice and comment rulemaking.¹²

Finally, Dobson supports the Petitioners' argument that the Bureau's interpretation of a wireless carrier's 911 data transport obligations is not only inconsistent with the respective requirements imposed upon wireline carriers,¹³ but also that such a discrepancy is unlawfully discriminatory.¹⁴ PSAPs are generally responsible for the costs of transporting E911 Phase I information from a wireline provider's end office to

⁷ See Petition at 4-6.

⁸ *Id.* at 8.

⁹ *Id.* at 12-13.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 8-9.

¹² *Id.* at 11.

¹³ *Id.* at 7.

¹⁴ *Id.* at 14-15.

the selective router, and the Commission's rules require the same for facilities between a wireless provider's MSC and the selective router.

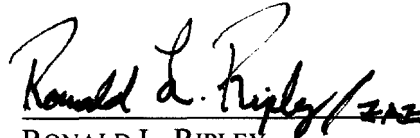
III. CONCLUSION

For the foregoing reasons, the Bureau should grant the Petition for reconsideration. The Bureau must ultimately reach the conclusion that the appropriate demarcation point for allocating carriers' and PSAPs' E911 Phase I costs is the MSC. Such a determination is consistent with the Commission's rules, policies, precedent, the APA, and the public interest.

Respectfully submitted,

DOBSON COMMUNICATIONS CORPORATION

By:

A handwritten signature in dark ink, appearing to read "Ronald L. Ripley", with a stylized flourish at the end.

RONALD L. RIPLEY
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Its Attorney.

July 30, 2001

CERTIFICATE OF SERVICE

I, Anne Marie Pierce, hereby certify that on this 30th day of July 2001, I served a copy of the foregoing Comments of Dobson Communications Corporation by U.S. first-class mail, or by hand delivery as indicated with an *, to the following persons:

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